

5/14/09

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 KRISTIN K. MAYES, Chairman
 GARY PIERCE
 PAUL NEWMAN
 SANDRA D. KENNEDY
 BOB STUMP

MICHAEL P. KEARNS
 INTERIM EXECUTIVE DIRECTOR



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ARIZONA CORPORATION COMMISSION

ORIGINAL

MEMORANDUM

TO: Kristin K. Mayes, Chairman
 Gary Pierce
 Paul Newman
 Sandra D. Kennedy
 Bob Stump

Arizona Corporation Commission

DOCKETED

MAY - 1 2009

FROM: Mark Dinell *MD*
 Assistant Director of Securities

DOCKETED BY

DATE: April 27, 2009

RE: Proposed Order for Relief and Consent to Same: Woodbury Financial Services, Inc. Docket No. S-20671A-09-0191

CC: Michael P. Kearns, Interim Executive Director

AZ CORP COMMISSION
DOCKET CONTROL

2009 MAY - 1 A 9:52

RECEIVED

Attached is a proposed Order for Relief and Consent to Same ("Order"), fully executed by Respondent Woodbury Financial Services, Inc. ("Woodbury"). The proposed Order requires Respondent to pay an administrative penalty in the amount of \$250,000, for failing to reasonably supervise two of its former registered securities salesmen, Mayra Angulo ("Angulo") and Mark Islas ("Islas"). In Decision No. 70753, docketed on February 24, 2009, the Commission approved a default order against Angulo and Islas finding fraud violations under the Securities Act involving their offer and sale of securities in the form of money market funds, variable annuities and variable life insurance products. Angulo and Islas used post office boxes under their control to misappropriate funds from 30 residents of Arizona and Mexico. At that time Woodbury had reimbursed approximately \$1,320,538.00 of those losses. To date, Woodbury has reimbursed \$2,037,617.00 to victims.

Woodbury has also undertaken remedial measures to ensure that this type of fraudulent conduct using post office boxes will not recur. Woodbury will continue to provide the Securities Division reports of any additional customer claims, and has undertaken to continue to reimburse all principle losses. The Division supports this proposed Order as serving the public interest.

Originator: Pam Johnson

MN/ptj

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 **COMMISSIONERS**

3 KRISTIN K. MAYES, Chairman
4 GARY PIERCE
5 PAUL NEWMAN
6 SANDRA D. KENNEDY
7 BOB STUMP

8 In the matter of

9 WOODBURY FINANCIAL SERVICES,
10 INC., CRD #36407

11 Respondent.

) DOCKET NO. S-20671A-09-0191

) DECISION NO. _____

) **ORDER FOR RELIEF AND CONSENT TO**
) **SAME**

12 Respondent Woodbury Financial Services, Inc. ("Woodbury" or "Respondent"), elects to
13 permanently waive any right to a hearing and appeal under Articles 11 and 12 of the Securities Act
14 of Arizona, A.R.S. § 44-1801 *et seq.* ("Securities Act") with respect to this Order For Relief and
15 Consent to Same ("Order"). Respondent admits the jurisdiction of the Arizona Corporation
16 Commission ("Commission"); neither admits nor denies the Findings of Fact and Conclusions of
17 Law contained in this Order; and consents to the entry of this Order by the Commission.

18 **I.**

19 **FINDINGS OF FACT**

20 1. Woodbury was at all relevant times a securities dealer registered with the
21 Commission. Woodbury maintains corporate headquarters at 7755 Third Street North, Oakdale,
22 Minnesota 55128, and maintains various branch office locations in Arizona.

23 2. Mayra Jeanette Angulo ("Angulo") was at all pertinent times a registered securities
24 salesman in Arizona since on or about January 1, 1992, CRD #2221337, operating from Tucson,
25 Arizona. Angulo was registered in Arizona in association with Woodbury from January 1, 2002,
26 until November 8, 2007, when Woodbury discharged Angulo for violating company policy.
Angulo was employed with Banc of America Investment Services, Inc. ("BAI") from July 10, 2000

1 to August 2, 2001, when she was discharged by BAI. The Commission revoked Angulo's securities
2 salesman registration on February 24, 2009, in Decision No. 70753. Angulo was at all pertinent
3 times also licensed as an insurance producer with the Arizona Department of Insurance.

4 3. Mark Islas was at all pertinent times a registered securities salesman in Arizona
5 since on or about May 11, 1989, CRD #1953882, operating from Tucson, Arizona. Islas was
6 registered in Arizona in association with Woodbury, from March 8, 2001, until November 8, 2007,
7 when Woodbury discharged Islas for violating company policy. The Commission revoked Islas's
8 securities salesman registration on February 24, 2009, in Decision No. 70753. Islas was at all
9 pertinent times also licensed as an insurance producer with the Arizona Department of Insurance.

10 4. At all pertinent times, Angulo and Islas were married to one another, until August
11 21, 2007. Angulo and Islas operated as a team selling insurance as agents for, among other
12 carriers, Hartford Life and Annuity Insurance Company ("Hartford"), including securities in the
13 form of variable annuities and variable life insurance products, and mutual funds through
14 Woodbury. Until they divorced, Angulo and Islas conducted their securities and insurance business
15 through their dba, International Financial Services Group ("IFS Group").

16 5. After opening brokerage account for certain customers, Angulo and Islas changed
17 the addresses on the accounts to Arizona post office boxes.

18 6. In some instances, Angulo and Islas used their own post office boxes for customer
19 addresses, and in some instances used the same post office box for several customers.

20 7. Angulo and Islas instructed some customers to send their payments to these post
21 office boxes that Angulo and Islas controlled, for the purported purchase of securities.

22 8. Angulo and Islas instructed some customers to make checks payable directly to IFS
23 Group, or to mail their premiums payments to IFS Group in Tucson, Arizona.

24 9. Angulo and Islas also used the Arizona post office boxes to intercept some customer
25 premium payments intended for Hartford, customer account statements, information notices, and
26 money market account checkbooks.

1 10. Angulo and Islas misappropriated some Woodbury customers' money intended to
2 purchase money market securities.

3 11. Angulo and Islas failed to forward some customers' premium payments to Hartford,
4 causing policies to lapse or terminate without customers' knowledge.

5 12. Angulo and Islas intercepted some customer account statements from Arizona post
6 office boxes that they controlled, and altered customer account statements to reflect purported
7 growing cash value in the customers' money market securities accounts.

8 13. Angulo and Islas used customers' money market account check books to withdraw
9 customer funds from customers' accounts for Angulo's and Islas's own purposes, including paying
10 funds to themselves or to Angulo's and Islas's family members, associates, or other customers.

11 14. Angulo and Islas used some customers' funds to make minimal payments to cover
12 premiums for lapsed policies.

13 15. Angulo and Islas told some customers that their funds were used to purchase
14 securities that were paying the customers interest when, in fact, purported "interest" payments were
15 paid from the customers' own money market accounts.

16 16. Woodbury had compliance rules that prohibited registered securities salesmen
17 from changing customer brokerage accounts to post office boxes without properly documenting
18 customer approval.

19 17. Despite such policies and prohibitions, Woodbury did not discover Angulo's and
20 Islas's fraudulent conduct involving unauthorized post office boxes until after one of Angulo's
21 customers requested to have Angulo removed as the dealer's representative handling her
22 accounts. Woodbury and Hartford promptly initiated an investigation of Angulo and Islas and
23 discovered their use of unauthorized post office boxes to defraud customers.

24 18. Woodbury received the customer's request on or about October 17, 2007.
25 Woodbury immediately commenced an internal investigation of Islas's and Angulo's documents to
26 determine if facts warranted a broader investigation beyond to complaining customer. Following

1 such review, Woodbury concluded that there were significant concerns. Accordingly, a member of
2 The Hartford's Special Investigations Unit was sent to Arizona on November 6, 2007, to interview
3 Angulo and Islas and to confiscate all customer files and other records belonging to Woodbury.
4 Woodbury terminated both salesmen on November 8, 2007.

5 19. While reviewing Angulo and Islas's business, Woodbury uncovered evidence of a
6 scheme to defraud customers of insurance premium payments on variable products, i.e., securities,
7 in which the salesmen used Arizona post office boxes to receive payments from customers as well
8 as customer account statements.

9 20. Woodbury did not discover Angulo's and Islas's unauthorized and fraudulent use
10 of post office boxes so as to prevent losses to customers.

11 21. Before Woodbury first registered Angulo as a securities salesman in Arizona in
12 January 2002, Woodbury interviewed Angulo concerning the circumstances of her for-cause
13 discharge from BAI, concerning BAI's reference to "forged checks" on Angulo's Form U-5, which
14 stated: "Internal review related to deposit of forged checks in employee checking account. Such
15 deposit was not related to investment activity or conversion of customer funds." Angulo related
16 circumstances to Woodbury that involved an alleged third party check given to her to purchase a car
17 from her. Woodbury accepted Angulo's explanation without further investigation. Only after
18 initiating an internal investigation of Angulo and Islas in November 2007 did Woodbury discover
19 that Angulo had failed to report federal criminal charges filed against her in 2006.

20 22. Although Woodbury conducted annual office audits, they did not conduct surprise
21 on-site audits of Angulo's and Islas's client files, the books and records of their dba IFS, or bank
22 accounts controlled by Angulo and Islas or IFS. Woodbury failed to discover that customers
23 were paying funds directly to IFS, and that Angulo and Islas were misappropriating funds
24 intended for premium payments to Hartford and money market funds.

25 23. Beginning in April 2008, Woodbury sent inquiry letters to customers serviced by
26 Angulo and Islas requesting the customers to review their investments and contact Woodbury if

1 there were any issues. Many of these customers did not respond to the inquiry letters. In
2 approximately December 2007, Woodbury began to receive, investigate, respond to, and resolve
3 complaints and inquiries of customers concerning the status of their investments through Angulo
4 and Islas and to settle customer claims of losses resulting from Angulo's and Islas's misconduct.

5 24. Woodbury reported the alleged misconduct of Angulo and Islas to the State of
6 Arizona on or about November 8, 2007. On or about January 9, 2008, Woodbury made its first
7 payments to fully reimburse losses incurred in the Woodbury accounts of Islas's and Angulo's
8 victims. Since January 2008, Woodbury has provided compensation to 32 victims holding securities
9 products totaling approximately \$2,037,617.00.

10 25. Woodbury has provided the Securities Division a written assurance of undertaking
11 to continue its compensation of all principal losses to the victims of Angulo's and Islas's
12 fraudulent conduct involving securities during the time period that Angulo and Islas were
13 registered as securities salesman through Woodbury.

14 REMEDIAL MEASURES

15 26. To date, Woodbury has taken the following steps to prevent a reoccurrence of the
16 type of misconduct that resulted in losses to their customers through Angulo and Islas:

17 a) Woodbury has modified its procedures with respect to post office boxes and
18 address changes. Woodbury now requires the following authorization to be signed by a customer
19 who chooses to use a post office box as a primary mailing address when opening a new account or
20 when changing an address to a post office box:

21 I am authorized to use the PO Box above. I attest that my Woodbury Financial
22 Services, Inc. ("Woodbury") registered representative is not authorized to access
23 the PO Box listed above, and I will not provide my current and/or future
Woodbury registered representative access to my PO Box in the future.

24 b) Woodbury has created an address comparison report. Currently, each
25 representative's known addresses are being compared against the addresses of all customers. If there
26 is an address match and there is no obvious or known connection between the representative and the

1 client (such as a familial tie or business partner) Woodbury contacts the representative for an
2 explanation.

3 c) On January 1, 2009, Woodbury implemented a program under which it will be
4 completing annual background checks of its representatives. The purpose of conducting annual
5 checks is twofold. First, to identify any criminal issues arising after a representative affiliates with
6 Woodbury, which were not self-reported by the representative, so that Woodbury will be able to
7 immediately address the situation. Second, the annual background check will encompass a credit
8 report review, which will assist the firm in identifying those representatives who are in financial
9 trouble and may pose a risk to their clients and the firm.

10 d) In 2009, Woodbury began seeking financial information, including a review of
11 bank account statements, from its representatives who have significant outside business activities.

12 e) For its 2009 audit year, Woodbury has committed to increasing the number of
13 unannounced audits of registered securities salesmen. Woodbury also increased the number of
14 unannounced audits in 2008.

15 II.

16 CONCLUSIONS OF LAW

17 1. The Commission has jurisdiction over this matter pursuant to Article XV of the
18 Arizona Constitution and the Securities Act.

19 2. Woodbury failed to reasonably supervise Angulo and Islas pursuant to the
20 provisions of A.R.S. § 44-1961(A)(12).

21 2. Respondent's conduct is grounds for an order of restitution and/or rescission
22 pursuant to A.R.S. § 44-1961(B)(3).

23 3. Respondent's conduct is grounds for administrative penalties under A.R.S. § 44-
24 1961(B)(1).

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III.**ORDER**

THEREFORE, on the basis of the Findings of Fact, Conclusions of Law, and Respondent's consent to the entry of this Order, attached and incorporated by reference, the Commission finds that the following relief is appropriate, in the public interest, and necessary for the protection of investors:

IT IS ORDERED that Respondent complies with the attached Consent to Entry of Order.

IT IS FURTHER ORDERED that Respondent will continue to provide the Division with quarterly status reports regarding ongoing claims, inquiries, negotiations and settlements of claims by former customers of Angulo and Islas until all claims have been substantially resolved or until the Division determines otherwise.

IT IS FURTHER ORDERED that the Commission shall retain jurisdiction in this matter to address issues relating to restitution or rescission to investors in accordance with A.R.S. § 44-1961 and A.A.C. Rule R14-4-308, pending a final accounting of customer funds and resolution of customer claims.

IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-1961, that Respondent Woodbury, shall pay an administrative penalty in the amount of \$250,000. Payment shall be made to the "State of Arizona." Payment shall be made in full on the date of this Order. Any amount outstanding shall accrue interest at the rate of 10% per annum from the date of this Order until paid in full.

For purposes of this Order, a bankruptcy filing by Respondent prior to time of payment shall be an act of default. If Respondent does not comply with this Order, any outstanding balance may be deemed in default and shall be immediately due and payable.

IT IS FURTHER ORDERED, that if Respondent fails to comply with this order, the

...

...

Commission may bring further legal proceedings against Respondent, including application to the superior court for an order of contempt.

IT IS FURTHER ORDERED that this Order shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION

CHAIRMAN

COMMISSIONER

COMMISSIONER

COMMISSIONER

COMMISSIONER

IN WITNESS WHEREOF, I, MICHAEL P. KEARNS, Interim Executive Director of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this _____ day of May, 2009.

MICHAEL P. KEARNS
INTERIM EXECUTIVE DIRECTOR

DISSENT

DISSENT

This document is available in alternative formats by contacting Shaylin A. Bernal, ADA Coordinator, voice phone number 602-542-3931, e-mail sabernal@azcc.gov.

(ptj)

CONSENT TO ENTRY OF ORDER

1
2 1. Woodbury Financial Services, Inc. ("Respondent") admits the jurisdiction of the
3 Commission over the subject matter of this proceeding. Respondent acknowledges that
4 Respondent has been fully advised of Respondent's right to a hearing to present evidence and call
5 witnesses and Respondent knowingly and voluntarily waives any and all rights to a hearing before
6 the Commission and all other rights otherwise available under Article 11 of the Securities Act and
7 Title 14 of the Arizona Administrative Code. Respondent acknowledges that this Order For Relief
8 and Consent to Same ("Order") constitutes a valid final order of the Commission.

9 2. Respondent knowingly and voluntarily waives any right under Article 12 of the
10 Securities Act to judicial review by any court by way of suit, appeal, or extraordinary relief
11 resulting from the entry of this Order.

12 3. Respondent acknowledges and agrees that this Order is entered into freely and
13 voluntarily and that no promise was made or coercion used to induce such entry.

14 4. Respondent acknowledges that Respondent has been represented by an attorney in
15 this matter, Respondent has reviewed this Order with Respondent's attorney, Mark Sides, and
16 understands all terms it contains.

17 5. Respondent neither admits nor denies the Findings of Fact and Conclusions of Law
18 contained in this Order. Respondent agrees that Respondent shall not contest the validity of the
19 Findings of Fact and Conclusions of Law contained in this Order in any present or future
20 administrative proceeding before the Commission or any other state agency concerning the denial
21 or issuance of any license or registration required by the state to engage in the practice of any
22 business or profession.

23 6. By consenting to the entry of this Order, Respondent agrees not to take any action
24 or to make, or permit to be made, any public statement denying, directly or indirectly, any Finding
25 of Fact or Conclusion of Law in this Order or creating the impression that this Order is without
26 factual basis. Respondent will undertake steps necessary to assure that all of Respondent's agents

1 and employees understand and comply with this agreement. Notwithstanding the foregoing, this
2 Order is not intended to collaterally estop, factually bind or preclude the Respondents from
3 defending themselves in any administrative, civil or criminal proceeding to which the Commission
4 is not a party.

5 7. Respondent understands that this Order does not preclude the Commission from
6 instituting other administrative or civil proceedings based on violations that are not addressed by
7 this Order.

8 8. Respondent understands that this Order does not preclude the Commission from
9 referring this matter to any governmental agency for administrative, civil, or criminal proceedings
10 that may be related to the matters addressed by this Order.

11 9. Respondent understands that this Order does not preclude any other agency or
12 officer of the state of Arizona or its subdivisions from instituting administrative, civil, or criminal
13 proceedings that may be related to matters addressed by this Order.

14 10. Respondent agrees that Respondent will continue to cooperate with the Securities
15 Division including, but not limited to, providing complete and accurate testimony at any hearing in
16 this matter and cooperating with the state of Arizona in any related investigation or any other
17 matters arising from the activities described in this Order.

18 11. Respondent consents to the entry of this Order and agrees to be fully bound by its
19 terms and conditions.

20 12. Respondent acknowledges and understands that if Respondent fails to comply with
21 the provisions of the order and this consent, the Commission may bring further legal proceedings
22 against Respondent, including application to the superior court for an order of contempt.

23 13. Respondent understands that default shall render Respondent liable to the
24 Commission for its costs of collection and interest at the maximum legal rate.

25 14. Respondent agrees and understands that if Respondent fails to make any payment as
26 required in the Order, any outstanding balance shall be in default and shall be immediately due and

1 payable without notice or demand. Respondent agrees and understands that acceptance of any
2 partial or late payment by the Commission is not a waiver of default by Commission.

3 15. Mark A. Sides represents that he is Chief Legal Officer of Woodbury Financial
4 Services, Inc. and has been authorized by Respondent to enter into this Order for and on its behalf.

5
6 WOODBURY FINANCIAL SERVICES, INC.

7 

8 By Mark A. Sides

9 Its Chief Legal Officer

10 STATE OF MINNESOTA)
11) ss
12 County of)

13 SUBSCRIBED AND SWORN TO BEFORE me this 27th day of April, 2009.

14 

15 NOTARY PUBLIC

16 My commission expires:

17 Jan. 31, 2011

